

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15629 of 2005

Date of decision: 09.10.2007

M/s HD Traders Pvt. Ltd

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**Coram: Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice Ajay Kumar Mittal**

Present: Mr. Ajay Tewari, Advocate,
for the petitioner.

Mr. Amit Chaudhary, AAG, Punjab,
for respondent No. 1.

Mr. Harbhajan Singh Sran, Advocate,
for respondents No. 2 to 4.

M.M.Kumar, J.

The prayer made in this petition filed under Article 226 of the Constitution is that the orders dated 08.02.2002 (P-6) and 01.08.2005 (P-8) be quashed. The dispute between the petitioner and respondents No. 2 to 4 is that the petitioner has not paid the market fee and R.D.F. to the respondents despite the fact that it is payable by it. The petitioner has produced KK forms issued by the firms from whom it has been purchasing goods to show that the payment was made to all such firms. However, the respondents have found that all those firms were fake firms and payment might have been made by the petitioner to those firms but those firms in turn have not deposited market fee to the respondents.

Mr. Ajay Tewari, learned counsel for the petitioner has raised various arguments but has adhered to one basic submission that no notice was served on the petitioner before framing the assessment. According to learned counsel a show cause notice was required to be issued on the ground that the firms to whom the petitioner had paid market fee and which have issued KK forms were bogus and that they have failed to deposit

the market fee with the respondents which realized by them from the petitioner.

Mr. Sran, learned counsel for respondents No. 2 to 4 has not been able to dispute the aforementioned factual position. It is conceded that no notice to the petitioner with regard to the fact that the firms to whom the petitioner might have paid market fee and which have issued KK forms, to it, were bogus and that those firms have not deposited the market fee realized from the petitioner. Therefore, the order dated 08.02.2002 (P-6) and order dated 01.08.2005 (P-8) are liable to be set aside.

In view of the above, we set aside order dated 08.02.2002 and 01.08.2005 (P-6 and P-8) with a direction to the respondents to proceed afresh after hearing the petitioner. The fact of notice having been served, shall now be presumed as has been conceded by the counsel for the petitioner. Accordingly, the petitioner is directed to appear before respondent No. 4 on 25.10.2007. A copy of this order shall be furnished to the parties dasti on payment of usual charges.

Writ petition stands disposed of in the above terms.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

October 09, 2007
pj